

STATEMENT IN SUPPORT OF A COMPLAINT

I, Angelo DeFeo, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation, and have been so employed since September 2015. My current responsibilities include the investigation of domestic and international terrorism acts. My previous responsibilities included the investigation of mass violence threats, and other acts of violence.

2. I am familiar with this investigation and make this affidavit, in part, based upon my training and experience, my personal knowledge, and based upon information learned from other law enforcement officers or witnesses. Except where indicated, all statements referenced herein are set forth in substance and in part, rather than verbatim.

3. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. Instead, this statement provides information necessary to establish probable cause to arrest the defendant, Barry Zarculia ("Zarculia"), for four violations of Title 18, United States Code, Section 2261A (Cyberstalking).

PROBABLE CAUSE

4. The FBI has been conducting an investigation into Zarculia since June 2020 for allegedly engaging in a course of conduct that would constitute cyberstalking numerous victims. As set forth in detail below, the investigation has revealed that Zarculia has used a cellular telephone, subscribed to in Zarculia's name, and an Instagram account, to which he subscribes, to send death threats, threaten serious bodily harm, and/or harass/intimidate multiple victims.

5. In June 2020, the FBI received an anonymous tip via the FBI's National Threat

Operations Center, which indicated that the user of Instagram account @songs_in_the_key_of_z was posting hateful, racist, anti-black messages on his public message board, such as messages including the phrasing “black lives don’t matter.” In addition, the complainant referenced having observed posts which applauded the sniper who conducted the 2017 Las Vegas Massacre and which alluded to the fact that the user wished the same attack would occur in Nashville, Tennessee.

6. Records obtained from Instagram revealed that the Instagram account associated with the username “@songs_in_the_key_of_z,” as well as the username “@ZARCULIA1967,” is registered to “Barry Zarculia,” with the unique Account Identifier of 24866193158. Records also revealed that telephone numbers 615 [REDACTED] 1570 and 615 [REDACTED]-2054¹ are associated with Zarculia’s Instagram account.

7. A review of records received from Sprint revealed that telephone number 615- [REDACTED] 1570 is currently subscribed to in the name Barry Zarculia with a listed address of [REDACTED] Ash Valley Drive, Nashville, Tennessee 37215, identified by IMSI 310120243872124, and has been so since January 17, 2020.

A. COUNT ONE - VICTIM 1:

8. In July 2020, the FBI interviewed Victim 1 (“V1”) who reported that, on June 7, 2020, Zarculia, who V1 knew to be the user of Instagram account “@songs_in_the_key_of_z,” posted the following to his public Instagram page:

I’ve been shot and car jacked 2 years ago by juvenile blacks, car windows smashed with 5 others a week ago on my street and more -black lives dont matter
#blacklivesdontmatter.

Zarculia also posted:

I was shot and car jacked and shot 2 times exactly 2 years ago, in green hills, by 4

¹ Records obtained from Sprint indicated that Zarculia was the subscriber for this account from November 19, 2019, through December 5, 2019. He is not the current subscriber, as of today, however.

little black kids. Last week, off Belmont blvd near Martin's, 6 cars, including 2 teslas, bmw, suv's got their side windows totally shattered, ripped interior from glass, all in 30 seconds time. All caught on next door neighbors tesla car camera. The window breakers face was captured plain as day on camera, ask me what color his skin was.....Best advice, stay clear of blacks, they only cause trouble.

After receiving negative feedback from other social media users regarding the comments, the user posted a photograph of V1's residence, along with V1's home address, onto his public page, saying in part, "Anyone that wants a piece of me, come on over,.....Off Nolensville Pike. I sleep in the front bedroom." V1 advised the FBI that his minor son sleeps in the bedroom identified in the post, causing V1 to fear for his and his son's safety due to the racist connotations associated with the posted messages. V1 further advised that this was not the first time Zarculia had engaged in threatening and harassing behavior toward V1, stating that Zarculia had previously sent V1 messages in which Zarculia threatened to put a gun in V1's mouth. V1 advised that these previously received threatening messages were received via the telephone; V1 does not have recordings of these messages.

9. In response to Zarculia's aggressive posts on Instagram, V1 took steps to protect his minor son and repositioned surveillance cameras at his house to capture his minor son's bedroom from outside the house.

10. In September 2020, V1 contacted the FBI again to report having recently received a death threat via a telephone call from Zarculia. V1 stated that he answered the call, which came from a blocked number, and the individual on the other end, whose voice V1 recognized as being that of Zarculia, said to him, "Come over to my house so I can put a gun in your mouth."

11. V1 provided the FBI with a screenshot from his cellular telephone of the call record, which showed an incoming call having been received by V1 at 9:38 a.m. on September 25, 2020.

12. Based upon information received from AT&T, the originating number that called V1 on September 25, 2020, at 9:38 a.m. was 615-█ 1570, which, as stated above, is subscribed

to by Zarculia.

13. Based on the above, there is probable cause to believe that between on or about June 7, 2020, and the present; (1) Zarculia used an interactive computer service or electronic communication service, or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct; (2) that Zarculia, while engaged in the course of conduct, acted with the intent to kill, injure, harass, or intimidate V1; and (3) that placed V1 in reasonable fear of the death of, or serious bodily injury to, V1 or another person or caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to V1, in violation of Title 18, United States Code, Section 2261A(2)(A) and (B).

B. COUNT TWO - VICTIMS 2 and 3:

14. On or about September 10, 2020, the FBI interviewed Victim 2 (“V2”) and Victim 3 (“V3”) regarding threatening/harassing/intimidating messages they had received from Zarculia. V2 and V3 are close friends with each other. During the interview with V2, V2 advised that Zarculia contacted her in approximately September 2019 using his Instagram account. At that time, V2 had never met Zarculia in person. Zarculia messaged V2, advising that he had observed V2 at multiple locations around Nashville, Tennessee, such as a local coffee shop and local park. V2 advised the messages were received after V2 had been present in those locations earlier that same day. Zarculia continued messaging V2 over Instagram for the next few months. V2 said the messages received by Zarculia were “creepy” and “overly sexual,” and that she often received photographs of a penis, which Zarculia claimed to be his own. V2 also advised that on one occasion, Zarculia commented about V2’s 8-year-old son, specifically referencing the location of his elementary school. V2 advised that she did not recall ever telling Zarculia about her son or the location of her son’s elementary school.

15. V2 did not like the messages that Zarculia was sending her and eventually stopped responding to his messages online.

16. Subsequently, in late January or early February 2020, Zarculia approached V2 at a grocery store located in Nashville, Tennessee. While V2 acknowledged Zarculia, she did not engage in a conversation with him and went about her business. Later, Zarculia sent her messages that were angry in nature.

17. After learning about Zarculia's repeated messages to V2 and V2's increasing concern about the interactions with Zarculia, V3 made contact with Zarculia in February 2020 via Zarculia's Instagram account. V3 did this in order to obtain more information on Zarculia for the purpose of conducting a background check on Zarculia due to her concern for V2. V3 stated that when Zarculia learned that V2 and V3 were friends, they began receiving angry, violent messages from Zarculia. Some of these messages were sent in audio format using Zarculia's Instagram account. Specifically, on February 9, 2020, Zarculia sent an audio message to V3 in which Zarculia stated, in part, "Both of you are stupid fucking cunt fucks....if I ever see you in person, I'll knock you both fucking....right the fuck....I'll break both your fucking necks. How about that?"

18. In response to Zarculia's behavior, V2 and V3 began changing their routines and started sharing their locations via their cellular telephones. V3, who already owned a gun began keeping her gun loaded and in an accessible location, unlike before, and installed motion sensing cameras to the exterior of her home. V3 also provided V2 with a can of mace to carry with her for her protection.

19. Based on the above, there is probable cause to believe that between in or about September 2019 through the present (1) Zarculia used an interactive computer service or electronic

communication service, or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct; (2) that Zarculia, while engaged in the course of conduct, acted with the intent to kill, injure, harass, or intimidate V2 and V3; and (3) that placed V2 and V3 in reasonable fear of the death of, or serious bodily injury to, V2, V3, or another person or caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to V2 and V3, in violation of Title 18, United States Code, Section 2261A(2)(A) and (B).

C. COUNT THREE - VICTIM 4:

20. On or about September 8, 2020, the FBI interviewed Victim 4 (“V4”) regarding threatening/harassing/intimidating messages she had received from Zarculia. During that interview, V4 advised that she met Zarculia in approximately July/August 2018 when Zarculia contacted V4 via Instagram. V4 and Zarculia became friends on social media and talked online until approximately early 2019, when V4 decided to not pursue the relationship any longer. At this time, V4 and Zarculia had never met in person.

21. Later, Zarculia reached back out to V4 and advised that he had found her apartment. V4 was uncomfortable with this, but thought she might feel better if she met Zarculia in person. She subsequently met with Zarculia in-person on approximately three (3) occasions. V4 also became involved in a sexual-type relationship with Zarculia during this short period of time.

22. In August 2019, V4 reconciled with her boyfriend and told Zarculia that she did not want to continue their relationship. Zarculia was angry and began sending V4 angry, hurtful messages to her via his Instagram account. Some of the messages contained naked, lewd photographs of other women and men. Zarculia also sent her photographs of his own genitals. Around the same time, Zarculia posted V4’s apartment address, telephone number, and photograph on Craigslist and other public websites alleged to be utilized for escort/prostitution advertising.

23. On approximately five (5) occasions, V4 believes Zarculia stalked her at her apartment, leaving items such as guitar picks and a letter on her doorstep. In the letter, whom V4 believes to be from Zarculia, the writer stated, “YOU ARE THE BEST FUCK EVER!! WiSH i WAS FUCKING YOU DAiLY. YOU ARE THE MOST BEAUTiFUL GiRL EVER..... XOXO ALWAYS.”

24. In February 2020, V4 was contacted by Witness 1 (“W1”) via telephone. W1 called V4 to warn her that Zarculia had recently been to her (V4’s) apartment and had wiped a toxic/acidic chemical compound on the handle of V4’s front door. Fearing for her safety, V4 subsequently began staying at another location; however, she has not stopped renting her apartment. V4 advised she fears that Zarculia will find the location of where she is currently staying.

25. Based on the above, there is probable cause to believe that between in or about August 2019 through the present (1) Zarculia used an interactive computer service or electronic communication service, or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct; (2) that Zarculia, while engaged in the course of conduct, acted with the intent to harass or intimidate V4; and (3) that Zarculia’s course of conduct caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to V4, in violation of Title 18, United States Code, Section 2261A(2)(B).

D. COUNT FOUR - VICTIM 6:²

26. On or about October 14, 2020, the FBI interviewed Victim 6 (“V6”) regarding threatening/harassing/intimidating messages she had received from Zarculia. V6 advised that she first came into contact with Zarculia in June 2020, but did not actually meet Zarculia in person at

² In an effort to maintain consistency throughout court documents regarding victim identity, the Government intentionally did not identify any victim in this complaint as Victim 5.

that time. V6 advised that she observed Zarculia on approximately 12 occasions while she was walking or driving in her neighborhood when he would wave at her. V6 met Zarculia in person for the first time on July 7, 2020.

27. On July 9, 2020, Zarculia contacted V6 using his Instagram account associated with the username “@songs_in_the_key_of_z” and began sending her messages that were sexual in nature. Specifically, Zarculia comments on V6’s physical appearance, referring to her as being “anorexic” and how he liked her “flat chest.” Zarculia would also refer to the street name for her address in the messages. Zarculia’s messages caused V6 concern for her safety and indicated to her that he had been watching or following her in an attempt to locate her residence. Due to her concern, V6 installed a security system at her house, which included both interior and exterior cameras. V6 also filed a complaint with the Metro Nashville Police Department.

28. On September 19, 2020, after V6 finished hiking at Radnor Lake, she drove to a nearby gas station. Shortly after her arrival, Zarculia arrived at the gas station driving a silver Honda CRV. V6 hid in her vehicle while Zarculia pumped gas, hoping that Zarculia would not see her.

29. Upon returning home, V6 received an audio message from Zarculia via his Instagram account whereby he referenced seeing her and her vehicle at the gas station, commenting that she lived nearby. The following is a transcript of Zarculia’s audio message:

You know you got to admit this serendipity’s pretty funny at the gas station, and every other place, every single walk, uh, before, um, let’s see my baby mama, mother of my child, [V6]. Uh, mom’s name, Judy, uh, some funny stuff. Oh, wait, and it gets better. So, I think I actually know where you live because your vehicle, uh, I’ve seen on Stokes, um, I knew this girl named Alita, that was an art dealer person back in the day we used to hang out and I’m pretty sure you live in the same exact house that Alita used to live in, and that’s even more freakin’ random but that’s how life fucking goes.

30. On September 28, 2020, V6 received additional audio messages from Zarculia via

his Instagram account. The following are excerpts from Zarculia's two audio messages:

First Message-

I've already met girls like you and dated them a million times. The fucking starving themselves bulimic, fucking girl you're way skinny you're already (unintelligible) fucking dumb fuck (unintelligible) that worked at the Green Hills Mall fucking ten years ago. Um, honey, it doesn't fucking matter, I'm not trying to intimidate you, you should stay off online on the Mayberry social fucking gossipier fucking online troll fucks around Nashville in this inbred fucking dumb fucking town. Where you fucking belong, dumb fuck.

Second Message-

. . . Um, you have nothing to offer. You're the wannabe fucking dumb fuck actress fucking dumb fuck, you fucking idiot, um, I actually have things going for me and I've done things in my life and let's see the girlfriend smokes your ass in every fucking way so uh, don't flatter yourself dumb fuck.

31. Zarculia also sent threatening/harassing/intimidating messages to V6's Instagram account in which he referred to a portion of her address – "██████" and said things like: "Anorexia girl"; "I don't like you as a human, i just like skinny flat chests, to put my cock in"; and "Your actually human garbage."

32. On October 2, 2020, V6 obtained a temporary order of protection in Davidson County against Zarculia, which he was served with on October 3, 2020, at approximately 1:51 p.m. Subsequently, on October 3, 2020, at approximately 2:30 p.m., V6 was finishing a hike at a nearby park when she observed Zarculia at a distance. V6 hid in a large bush until Zarculia walked away. At that point, V6 located a park ranger and asked for his assistance walking V6 to her vehicle. While V6 and the park ranger walked to V6's vehicle, Zarculia was observed nearby and yelled at V6, "Stay away from me crazy ass! Going to see you in court!" V6 captured a portion of Zarculia's rant on her cellular telephone.

33. Based on the above, there is probable cause to believe that between in or about June 2020 through the present (1) Zarculia used an interactive computer service or electronic

communication service, or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct; (2) that Zarculia, while engaged in the course of conduct, acted with the intent to harass or intimidate V6; and (3) that Zarculia's course of conduct caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to V6, in violation of Title 18, United States Code, Section 2261A(2)(B).

CONCLUSION

34. Based on the foregoing, your affiant submits that probable cause exists to believe Zarculia has committed four violations of Title 18, United States Code, Section 2261A (Cyberstalking), which would justify this Court to issue the requested warrant for Zarculia's arrest.